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MEMORANDUM

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TO: Docket Control

FROM: Steve M. Olea
Director
Utilities Division

AZ CORP COMMISSION
DOCKET CONTROL

DATE: November 9, 2010

RE: STAFF'S RESPONSE TO ORAL COMMENTS IN THE MATTER OF PROPOSED
RULEMAKING ON GAS ENERGY EFFICIENCY (DOCKET NO. RG-00000B-09-
0428)

Attached is the Staff Report regarding oral comments made by interested parties on Proposed Rulemaking on Gas Utility Energy Efficiency Standards, pursuant to Decision No. 71855. Decision No. 71855 ordered the Utilities Division to file with the Commission's Docket Control, a document including (1) a summary of all written comments filed by interested persons after October 18, 2010, and oral comments received at the oral proceeding in this matter, (2) the Utilities Division's responses to those comments, and (3) a revised Economic, Small Business, and Consumer Impact Statement, or a memorandum explaining why no revision of the prior Economic, Small Business, and Consumer Impact Statement is necessary.

SMO:BEK:kdh

Originator: Barbara Keene

Arizona Corporation Commission

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Docket No. RG-00000B-09-0428

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**STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION**

PROPOSED RULEMAKING ON GAS ENERGY EFFICIENCY

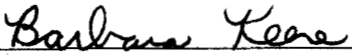
DOCKET NO. RG-00000B-09-0428

STAFF RESPONSE TO ORAL COMMENTS

NOVEMBER 9, 2010

STAFF ACKNOWLEDGMENT

The Staff Response to Oral Comments for Proposed Rulemaking On Gas Energy Efficiency, Docket No. RG-00000B-09-0428, was the responsibility of the Staff member listed below.



Barbara Keene
Public Utilities Analyst Manager

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Introduction

The Arizona Corporation Commission ("Commission") issued Decision No. 71855 on August 25, 2010. In that Decision, the Commission ordered that a Notice of Proposed Rulemaking, including proposed Gas Utility Energy Efficiency Standards rules, be filed with the Office of the Secretary of State for publication. The Notice of Proposed Rulemaking was published in the *Arizona Administrative Register* on September 17, 2010.

Pursuant to Decision No. 71855, Staff filed the Economic, Small Business, and Consumer Impact Statement that addressed the economic impacts of the proposed Gas Utility Energy Efficiency rules on September 22, 2010.

Decision No. 71855 requested that interested parties provide comments concerning the Notice of Proposed Rulemaking by filing written comments with the Commission's Docket Control by October 18, 2010. On October 25, 2010, Staff filed a summary of the written comments and Staff's comments regarding the proposed rules.

Decision No. 71855 also provided an opportunity for interested parties to provide oral comments at a proceeding to be held on October 28, 2010. The Utilities Division was to file with the Commission's Docket Control, a document including (1) a summary of all written comments filed by interested persons after October 18, 2010, and oral comments received at the oral proceeding in this matter, (2) the Utilities Division's responses to those comments, and (3) a revised Economic, Small Business, and Consumer Impact Statement, or a memorandum explaining why no revision of the prior Economic, Small Business, and Consumer Impact Statement is necessary.

Summary of Written Comments Filed After October 18, 2010, Regarding the Proposed Gas Utility Energy Efficiency Standards Rules

The Southwest Energy Efficiency Project ("SWEEP") filed comments on October 27, 2010. SWEEP strongly supports the proposed rules because the rules are in the public interest, increasing energy efficiency will reduce the total energy costs for utility ratepayers, the proposed standard is appropriate for Arizona, reliable gas service at reasonable rates and costs will be ensured for utility ratepayers, and the Commission is considering the issues regarding disincentives to utility support of energy efficiency in parallel proceedings.

The Sierra Club - Grand Canyon Chapter ("The Sierra Club group") filed comments on October 28, 2010, including the names of 14 other organizations. The group supports the Commission's commitment to increasing energy efficiency and promoting clean renewable energy. The group believes that a standard to achieve 6 percent energy savings by 2020 is a reasonable standard for Arizona. Arizonans will benefit from lower gas bills with a reasonable investment. Environmental benefits from the rules include cleaner air. Investing in energy efficiency measures also helps to create jobs.

The Sierra Club group supports giving the utility credit for energy savings regarding energy efficiency building codes and appliance standards but only if the utility demonstrates and documents its efforts to support the adoption and implementation of those building codes and appliance standards. The group also agrees with the provision for three-quarters of the energy savings coming from energy efficiency programs to apply to every year, not just to 2020.

Staff's Responses to the Written Comments Filed After October 18, 2010

Staff finds that all of the written comments filed after October 18, 2010, are consistent with the proposed rules as written. No modifications to the rules are required.

Summary of Oral Comments Regarding the Proposed Gas Utility Energy Efficiency Standards Rules

Administrative Law Judge Sarah Harpring asked Staff several questions that lead to Staff's recommended clarifications to the rules as discussed below.

Jeff Schlegel from SWEEP stated that SWEEP supports the changes to the two tables that Staff included in its October 25, 2010, report. He also restated the comments made in SWEEP's written comments filed on October 27, 2010. In addition, Mr. Schlegel said that SWEEP believes that the clarifications mentioned by Judge Harpring are appropriate. In response to questions from Commissioners, he described measurement and evaluation studies.

Justin Lee Brown spoke on behalf of Southwest Gas. He stated that the clarifications discussed by Judge Harpring and Staff sounded reasonable. David Hutchens, representing UNS Gas, stated that UNS Gas is fine with the rules as written and has no additional comments to the edits discussed that day.

Staff's Response to the Oral Comments

Staff's recommended clarifications to the rules, based on Judge Harpring's questions, are the following:

R14-2-2501(14)

Staff recommends that the words "and RET" be added to the definition of the term "energy efficiency standard" for accuracy to read as "Energy efficiency standard means the reduction in retail energy sales, in percentage of therms or therm equivalents, required to be achieved through an affected utility's approved DSM and RET programs as prescribed in R14-2-2504."

R14-2-2503(B)

For clarity, Staff recommends that (B)(1) be moved to follow the other two items in this section and begin with a qualifier. The section would read as the following:

- B. An affected utility shall consider the following when planning and implementing a DSM or RET program:
1. Whether the DSM or RET program will advance market transformation and achieve sustainable savings, reducing the need for future market interventions;
 2. Whether the affected utility can ensure a level of funding adequate to sustain the DSM or RET program and allow the program to achieve its targeted goals; and
 3. If a DSM program, the DSM program will achieve cost-effective energy savings.

R14-2-2504

Staff recommends that Tables 2 and 4 be revised, as discussed in Staff's October 25, 2010 report, and as shown below.

Table 2. Illustrative Example of Calculating Required Energy Savings

<u>CALENDAR YEAR</u>	<u>A RETAIL SALES (therms)</u>	<u>B ENERGY EFFICIENCY STANDARD</u>	<u>C REQUIRED CUMULATIVE ENERGY SAVINGS (therms or therm equivalents) (B of current year × A of prior year)</u>
<u>2010</u>	<u>100,000,000</u>		<u>0</u>
<u>2011</u>	<u>97,500,000</u>	<u>0.50%</u>	<u>500,000</u>
<u>2012</u>	<u>94,870,000</u>	<u>1.20%</u>	<u>1,170,000</u>
<u>2013</u>	<u>92,411,540</u>	<u>1.80%</u>	<u>1,707,660</u>
<u>2014</u>	<u>90,018,939</u>	<u>2.40%</u>	<u>2,217,877</u>
<u>2015</u>	<u>87,691,512</u>	<u>3.00%</u>	<u>2,700,568</u>
<u>2016</u>	<u>85,427,344</u>	<u>3.60%</u>	<u>3,156,894</u>
<u>2017</u>	<u>83,224,605</u>	<u>4.20%</u>	<u>3,587,948</u>
<u>2018</u>	<u>81,081,521</u>	<u>4.80%</u>	<u>3,994,781</u>
<u>2019</u>	<u>78,996,374</u>	<u>5.40%</u>	<u>4,378,402</u>
<u>2020</u>	<u>76,967,498</u>	<u>6.00%</u>	<u>4,739,782</u>

Table 4. Illustrative Example of How the Energy Standard Could be Met in 2020

	<u>2020 Energy Efficiency Standard</u>	<u>2019 Retail Sales (therms)</u>	<u>Required Cumulative Annual Energy Savings (therms or therm equivalents)</u>
Total	6.00%	78,996,374	4,739,782
Breakdown of Savings and Credits Used To Meet 2020 Standard:			
			<u>Cumulative Annual Energy Savings Or Credit (therms)</u>
Pre-rules Savings Credit R14-2-2504(D)			359,545*
Building Codes and Appliance Standards R14-2-2504(E)			425,000
Self-direction R14-2-2404(F)			27,000
RET R14-2-2504(G)			25,000
CHP R14-2-2501(10) and R14-2-2504(C)			135,000
Energy Efficiency R14-2-2504(C)	At least 75%		3,768,237
Total			4,739,782

* The total pre-rules savings credit shall be capped at 1% of 2005 retail energy sales, and the total credit is allocated over five years from 2016 to 2020. The credit shown above represents an estimate of the portion of the total credit that can be taken in 2020, or 32.5% of the total credit allowed.

R14-2-2504(C)

For clarity, Staff recommends that the language "An affected utility may count energy savings resulting from DSM energy efficiency and RET programs to meet the energy efficiency standard. At least 4.5 percentage points of the 6% energy efficiency standard in 2020, and at least 75% of the energy efficiency standard for the other years, set forth in subsection (B) shall be achieved through the energy efficiency programs." be revised to read as "An affected utility may count energy savings resulting from DSM and RET programs to meet the energy efficiency standard. At least 75% of the energy efficiency standard for each year listed in Table 1 shall be achieved through DSM energy efficiency programs."

R14-2-2504(E)

For clarity, Staff recommends that the language "An affected utility may count toward meeting the energy efficiency standard up to one-third of the energy savings resulting from energy efficiency building codes and up to one-third of the energy saving resulting from energy efficiency appliance standards. The energy savings must be quantified and reported through a measurement and evaluation study undertaken by the affected utility and the affected utility may count the energy savings only when the utility demonstrates and documents its efforts in support of the adoption or implementation of the energy efficiency building codes and appliance standards." be revised to read as "An affected utility may count toward meeting the energy efficiency standard up to one-third of the energy savings resulting from energy efficiency building codes and up to one-third of the energy saving resulting from energy efficiency appliance standards if the energy savings are quantified and reported through a measurement and evaluation study undertaken by the affected utility, and the affected utility demonstrates and documents its efforts in support of the adoption or implementation of the energy efficiency building codes and appliance standards."

R14-2-2504(F)

Staff recommends that "energy efficiency" be inserted before "standard" for clarity. Therefore, the sentence would be "An affected utility may count a customer's energy savings resulting from self-direction toward meeting the energy efficiency standard."

R14-2-2504(G)

For clarity, Staff recommends that "energy efficiency" be inserted in the second sentence before "standard" and "clearly" be deleted. Therefore, the sentence would be "An affected utility may also count toward meeting the energy efficiency standard all energy savings resulting from other RET projects that are not sponsored by the affected utility, if the affected utility can demonstrate that its efforts facilitated the placement and completion of the RET project."

R14-2-2504(H)

Staff recommends that "energy efficiency" be inserted before "standard" for clarity. Therefore, the sentence would be "An affected utility's energy savings resulting from efficiency improvements to its delivery system may not be counted toward meeting the energy efficiency standard."

R14-2-2504(I)

Staff recommends that "an energy efficiency or RET measure" be replaced with "a DSM measure or RET" for clarity. Therefore, the sentence would be "An affected utility's energy savings used to meet the energy efficiency standard will be assumed to continue through the year"

2020 or, if expiring before the year 2020, to be replaced with a DSM measure or RET having at least the same level of efficiency."

R14-2-2505(B)(4)

Staff recommends that "each DSM and RET measure and DSM and RET program" be replaced with "each DSM measure and program and each RET and RET program" for clarity. The language would read as "The estimated total cost and cost per therm reduction of each DSM measure and program and each RET and RET program described in subsection (B)(3):"

R14-2-2505(B)(6)

Staff recommends that "each new DSM and RET program and measure" be replaced with "each new DSM measure and program and each RET and RET program" for clarity. Therefore, the language would read as "For each new DSM measure and program and each new RET and RET program that the affected utility desires to implement, a program proposal complying with R14-2-2507."

R14-2-2507(A)

Staff recommends that "or measure" be inserted after "program" for clarity. Therefore, the sentence would be "An affected utility shall obtain Commission approval before implementing a new DSM or RET program or measure."

R14-2-2507(C)(6)

For clarity, Staff recommends that "For DSM" be added to the beginning of the item. Therefore, the language would read as "For DSM the estimated societal benefits and savings from the DSM program or measure."

R14-2-2507(C)(7)

For clarity, Staff recommends that "For DSM" be added to the beginning of the item. Therefore, the language would read as "For DSM the estimated societal costs of the DSM program or measure."

R14-2-2507(C)(9)

For clarity, Staff recommends that "For DSM" be added to the beginning of the item. Therefore, the language would read as "For DSM the estimated benefit-cost ratio of the DSM program or measure."

R14-2-2510(D)

For clarity, Staff recommends that "and measures" be deleted. Therefore, the sentence would read as "An affected utility shall recover its DSM and RET costs concurrently, on an annual basis, with the spending for DSM and RET programs, unless the Commission orders otherwise."

R14-2-2518(B)(1)

Staff recommends that the language "File with Docket Control, for Commission review and approval, an implementation plan for each DSM and RET program to be implemented or maintained during the next one or two calendar years, as applicable; and" be revised to read as "File with Docket Control, for Commission review and approval, an implementation plan providing information for each DSM and RET program to be implemented or maintained during the next one or two calendar years, as applicable; and" for clarity.

R14-2-2519(B)(1)

Staff recommends that the language "File with Docket Control, for Commission review and approval, an implementation plan for each DSM and RET program to be implemented or maintained during the next one or two calendar years, as applicable; and" be revised to read as "File with Docket Control, for Commission review and approval, an implementation plan providing information for each DSM and RET program to be implemented or maintained during the next one or two calendar years, as applicable; and" for clarity.

Discussion of the Economic, Small Business, and Consumer Impact Statement

The only revision to the Economic, Small Business, and Consumer Impact Statement filed on September 22, 2010 that Staff recommends is the addition of the following language to Section 3.a.: "While the Commission's Utilities Division will experience an increased workload as a result of the rules, the Commission does not at this time anticipate adding any full-time employees to implement and enforce the rules."